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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/533,753

Filing Date: May 04, 2005

Appellant(s): LEURS, NATHALIE DOROTHEE PIETERNEL

Daniel Piotrowski – Reg. No. 42,079
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 9, 2009 appealing from the Office action mailed September 12, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on November 12, 2008 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2004/0039814	Crabtree et al.	2-2004
US 2002/0147628	Specter et al.	10-2002
US 2004/0044677	Huper-Graff et al.	3-2004
US 2004/0083490	Hane	4-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 9, 11-15, 17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (US 2004/0039814 A1) ('Crabtree') in view of Specter et al. (US 2002/0147628 A1) ('Specter').

With respect to claims 1 and 16, Crabtree teaches:

determining a user preference profile (paragraph 63);

detecting a content item interest (paragraphs 69 and 75);

determining that the content item interest does not correspond to the user preference profile (paragraph 77);

determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile (paragraphs 77-85);

recommending a number of preference content items associated with the temporary user preference profile (paragraphs 79 and 87);

determining user preference of the recommended content items (paragraph 87-88 and 165), wherein the number of recommended content items depends on the determined user preference (paragraph 87) (***Crabtree teaches determining user preference by monitoring the number of times a user accesses information relating to the suggested interest. The number of items recommended depends on the number of times a user accesses information, i.e., his/her preference of the information. When a user has accessed more than a threshold number of times, the interest is automatically added to the user's profile and items associated with the temporary profile are not recommended any more.***); and

depending on the determined user preference, modifying the user preference profile to reflect the temporary user preference profile (paragraphs 82-88) (***Crabtree teaches that the profile modified monitors access of information related to the suggested interest, and when a certain criteria is met (i.e., a threshold number of accesses or minimum time accessing), the interest is added to the profile.***

Although Crabtree teaches determining user preference of content items, wherein the number of content items depends on the determined preference; and depending on the determined user preference, modifying the user preference profile, he does not teach user preference values.

Specter teaches a method and apparatus for generating recommendations for consumer preference items (see abstract), in which he teaches user preference values, including:

determining user preference values of the recommended content items (paragraph 39), wherein the number of recommended content items depends on the determined user preference values (Figure 4, paragraph 40) (***Specter teaches that user rating are determined for selected profile items, and that items greater than a threshold are displayed to a user. It is then determined if the items are acceptable by a user, if not, the items are redisplayed and re-rated until a user finds the items acceptable. The number of recommended items thus depends on a user rating (must be greater than threshold) and acceptability of the user.***); and

depending on the determined user preference values, modifying the user preference profile to reflect the temporary user preference profile (paragraph 40) ***(Specter teaches that when acceptable items are obtained, the profile is refined).***

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Crabtree by the teaching of Specter because user preference values would enable a need for a recommendation system that can generate substantial numbers of recommended items that accurately reflect a consumer's preferences (Specter, paragraph 8).

With respect to claim 8, Crabtree as modified teaches wherein the modification of the user preference profile is realized by including a user preference profile addition (Crabtree, paragraphs 86 and 87).

With respect to claim 9, Crabtree as modified teaches wherein the user preference profile addition is temporary (Crabtree, paragraphs 56 and 70).

With respect to claim 11, Crabtree as modified teaches wherein the content item interest is detected from a detection of a user selection of a content item (Crabtree, paragraphs 65, 69 and 100).

With respect to claim 12, Crabtree as modified teaches further comprising the step of recommending the content item for initial selection (Crabtree, paragraph 69).

With respect to claim 13, Crabtree as modified teaches wherein the recommendation of the content item is in response to an increase of preference values of other users for content items associated with the content item (Crabtree, paragraphs 33 and 69, claim 7).

With respect to claim 14, Crabtree as modified teaches further comprising the step of receiving topic interest information from an external source and wherein the content item interest is detected in response to the topic interest information (Crabtree, paragraphs 54 and 69).

With respect to claim 15, Crabtree as modified teaches wherein the external source comprises at least one source chosen from the group of newspapers, websites, and broadcast sources (Crabtree, paragraph 69).

With respect to claim 17, Crabtree as modified teaches:

a recommender processor for determining a user preference profile (Crabtree, paragraph 63);

a user interface controller for detecting a content item interest after receiving a selection of multiple content items (Crabtree, paragraphs 69 and 75);

wherein the recommender processor is operable to:

determine that the content item interest does not correspond to the user preference profile (Crabtree, paragraph 77);

determine a temporary user preference profile in response to the content item interest failing to correspond to the user preference profile (Crabtree, paragraphs 77-81);

recommend a number of preference content items associated with the temporary user preference profile (Crabtree, paragraphs 79 and 87);

determine that other content items associated with the temporary user preference profile achieve high user preference values (Crabtree, paragraphs 87-88; Specter, paragraph 40), wherein the number of recommended content items is determined in dependence of the determined user preference values (Crabtree, paragraphs 87-88; Specter, Figure 4, paragraphs 39 and 40); and

modify the user preference profile to reflect the temporary user preference profile (Crabtree, paragraphs 82-88).

With respect to claim 19, Crabtree as modified teaches wherein the number of recommended content items depends on a selection rate of the recommended content items (Crabtree, paragraphs 87-88).

With respect to claim 20, Crabtree as modified teaches wherein the number of recommended content items depends on the user's ratings of a recommended content item (Crabtree, paragraph 165; Specter, paragraphs 39-40).

With respect to claim 21, Crabtree as modified teaches wherein the number of recommended content items depends on a selection rate of the recommended content items and the user's ratings of a recommended content item (Crabtree, paragraphs 87-88; Specter, paragraphs 39-40).

With respect to claim 22, Crabtree as modified teaches including recommending a relatively greater number of content items if the determined preference values are relatively conclusive of an interest in or a disinterest in the recommended content items (Crabtree, paragraph 87; Specter, Figure 4, paragraph 40) and a relatively lower number of content items if the determined preference values are relatively inconclusive of an interest in or a disinterest in the recommended content items. ***(According to Crabtree, when an interest is determined to be of interest to user (based on user preference), it is added to the user's (regular) profile. Therefore, items related to the interest will be provided relatively more often, since the interest appears in the user's profile.)***

With respect to claim 23, Crabtree as modified teaches wherein the content interest belongs to a first category and a second category (Crabtree, paragraph 71) and recommending a first content item that belongs to the first category and a second content item that belongs to the second category (Crabtree, paragraphs 199-200; Specter, paragraphs 38-39), determining includes determining user preference values

for the first and second content items (Specter, paragraph 39), wherein the method includes updating the temporary user preference profile to reflect user preferences for the first and second content items (Crabtree, paragraph 221). ***(Crabtree teaches that interests may be tagged with more than one category of context, i.e., work and play. He further teaches that content items belonging to different categories may be recommended, and finally that the profile may be updated (i.e., moving the position of an interest in a list, deleting an interest from the profile, or adding an interest to a profile). Specter teaches selecting categories, generating profile items corresponding to subclasses of each category, and rating the profile items.)***

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (US Patent Application Publication 2004/0039814 A1) ('Crabtree') in view of Hane (US 2004/0083490 A1).

With respect to claim 24, Crabtree teaches:

- determining a user preference profile (paragraph 63);
- detecting a content item interest (paragraphs 69 and 75);
- determining that the content item interest does not correspond to the user preference profile (paragraph 77);
- determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile (paragraphs 77-85);

recommending a number of preference content items associated with the temporary user preference profile (paragraphs 79 and 87);

determining user preference of the recommended content items (paragraph 87-88 and 165) (***Crabtree teaches determining user preference by monitoring the number of times a user accesses information relating to the suggested interest.***);

using the determined user preference to generate a preference for the temporary user preference profile (paragraph 87) (***Crabtree teaches that a user's access to information related to the suggested interest is monitored (user preference) to determine if a user is interested in the suggested interest (preference for the temporary profile). This determination is made by monitoring access to see if the number exceeds a threshold value.***); and

depending on the generated preference, modifying the user preference profile to reflect the temporary user preference profile (paragraph 87) (***Crabtree teaches that the profile modified monitors access of information related to the suggested interest, and when a certain criteria is met (i.e., a threshold number of accesses or minimum time accessing), the interest is added to the profile.***).

Although Crabtree teaches determining user preference of content items; using the determined preference to generate a preference for the temporary user preference profile; and depending on the generated preference, modifying the user preference profile, he does not teach preference **values**.

Hane teaches a program recommendation system (see abstract), in which he teaches preference values, including:

determining user preference values (evaluation values) for the recommended content items (paragraphs 141-142 and 148);

using the determined user preference values (evaluation values) to generate a preference value (evaluation value plus profile value) for a profile (paragraphs 141-142) ***(Hane teaches that an evaluation value of a program is added to a profile value of the retrieved value; thus, the evaluation value (user preference value) is used to generate a preference value for the profile, the generated preference value being the addition of the profile value and evaluation value.);*** and

depending on the generated preference value, modifying a user profile/
recommendation page (paragraphs 148 and 154-156).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Crabtree by the teaching of Hane because preference values would enable a recommendation system having a plurality of profiles, which represent user preference from different aspects. The difference profiles are then used to determine which program to recommend (Hane, abstract).

With respect to claim 25, Crabtree as modified teaches determining the number of recommended content items in dependence on the user's interest in the recommended content items.

With respect to claim 26, Crabtree as modified teaches receiving topic interest information from a website, and wherein the content item interest is detected in response to the topic interest information (Crabtree, paragraphs 54 and 69).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Crabtree et al. (US Patent Application Publication 2004/0039814 A1) ('Crabtree') in view of Specter et al. (US 2002/0147628 A1) ('Specter'), as applied to claims 1, 8, 9, 11-15, 17 and 19-23 above, and further in view of Huper-Graff et al. (US Patent Application Publication 2004/0044677 A1) ('Huper-Graff').

With respect to claim 18, Crabtree as modified teaches a recommender as claimed in claim 17.

Crabtree as modified does not teach a private video recorder.

Huper-Graff teaches a method of personalizing information and services from various media sources (see abstract), in which he teaches a private video recorder (paragraph 2 lines 12-16).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Crabtree by the teaching of Huper-Graff because a private video recorder would enable classification of information sources (content and services alike) to provide the user with personalized data content recommendations (Huper-Graff, paragraph 8). Furthermore, Crabtree's

recommendation system could be used with television, wherein the PVR would follow user behavior and record what seems to be relevant shows for the user.

(10) Response to Argument

(1) Rejection of independent claims 1, 17 and 24

Appellant argues that Crabtree does not teach determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile. Examiner disagrees. Crabtree teaches that a new interest (i.e. an interest not in the user preference profile) is suggested to a user (paragraph 77); because the interest is new, it is clear that the content item interest does not correspond to the user preference profile. The new interest is typically tagged "on trial" and offers the user to add the interest to his/her profile for a week (paragraph 80). Furthermore, Crabtree teaches that after a week is up, the user may select "no" in response to the option of keeping the change (paragraphs 83-84), thus deciding not to keep the suggested content item interest as a part of the user preference profile, in which case the user preference profile will revert back to the original settings (paragraph 85). Therefore when the user selects the option to add a suggested new interest for a week (paragraph 81), the interest is added temporarily (i.e. for a week), and thus constitutes determining a temporary user preference profile.

Appellant more specifically argues that Crabtree refers to an update method that modifies an existing profile rather than determining a temporary user preference profile. Again, the Examiner disagrees. The limitation "determining a temporary user

preference profile in response to the content item interest not corresponding to the user preference profile" may be interpreted in two different ways. Under a first interpretation, a temporary user preference profile may be considered a modified version of a user preference profile. The basis for this interpretation is found in claims 1, 17 and 24. Claims 1, 17 and 24 never explicitly cite that the temporary user preference profile is a separate profile from the user preference profile. In fact, the last limitation cites, in part, "modifying the user preference profile to reflect the temporary user preference profile," which clearly suggests that the temporary user preference profile is a modified version of the user preference profile. As explained above, Crabtree teaches that a new content item interest may be added "on trial" to a user preference profile for a week. Thus, under this first interpretation, Crabtree teaches a temporary user preference profile, i.e. the profile with new interest added for a week. The temporary user preference profile relates to a modified user preference profile.

Under a second interpretation, a temporary user preference profile may be considered separate from a user preference profile. The basis for this interpretation is also found in claims 1, 17 and 24. Claims 1, 17 and 24, each cite "determining a user preference profile" and "determining a temporary user preference profile". Thus, it is also reasonable to conclude that the claim is directed to two separate profiles. Crabtree teaches a user preference profile comprised of a user's interests (paragraph 63). Crabtree further teaches suggesting a new interest to be added to the user's profile (paragraph 77), and adding this interest (temporarily) to the user profile for a trial period, such as a week (paragraphs 80-81). Lastly, he teaches that after a week, a user is

presented with the option to keep the changes to the profile (paragraphs 82-84), and if the user decides not to keep the changes, the profile will revert back to the original settings (paragraph 85). Thus, under the second interpretation, Crabtree also teaches a temporary user preference profile, i.e. the user preference profile after the suggested "on trial" interested is added to the profile, which is separate from the user preference profile before/without the new interest. In other words, the original user preference profile without any added suggested interests represents one profile, and the user preference profile after the new suggested interest item has been added to the profile represents a second, temporary user preference profile. Regardless of the interpretation of a temporary user preference profile, the temporary user preference profile is taught by Crabtree.

Appellant also argues that Crabtree fails to teach recommending a number of preference content items associated with the temporary user preference profile. Examiner disagrees. Crabtree teaches that a new interest may be suggested to a user (paragraph 77), and that the new interest may be temporarily added to a user profile (paragraphs 80-81). He further teaches that when the new interest is suggested to a user, a message is pushed to the user that reads "This will have the effect of returning stories like Story 1, Story 2, Story 3" (paragraph 79). The stories, i.e. Story 1, Story 2 and Story 3, are preference content items associated with the new interest to be temporarily added to the user profile, and thus are content items to be associated with the temporary user preference profile. Furthermore, the message pushed to the user infers that stories, such as Story 1, Story 2 and Story 3, will be recommended to the

user. Thus Crabtree teaches recommending a number of preference content items associated with the temporary user preference profile.

Crabtree further teaches that a profile modifier "could monitor the number of times the user accesses information relating to the suggested interest" (paragraph 87). This implies that a number of preference content items associated with the temporary user preference profile, i.e. information relating to the suggested interest, are recommended to the user. Therefore, Crabtree again teaches recommending a number of preference content items associated with the temporary user preference profile with regards to paragraph 87.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/A. M. L./
Examiner, Art Unit 2164
July 5, 2009

Conferees:

/Neveen Abel-Jalil/

Supervisory Patent Examiner, Art Unit 2165

Art Unit: 2164

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164